CITY OF NORWALK
PLANNING COMMITTEE
REGULAR MEETING
JUNE 7, 2012

ATTENDANCE: Nicholas Kydes, Chair; David McCarthy, Carvin Hilliard, Warren Peña, Michael Geake, Douglas Hempstead; Matthew Miklave (7:23 p.m.)

STAFF: Munro Johnson, Redevelopment Agency; Tim Sheehan, Redevelopment Agency Director

OTHERS: Council Member Kimmell; Frank Farricker, Globe Theater; Atty. Robert Maslan, Corporation Counsel

CALL TO ORDER

Mr. Kydes called the meeting to order at 6:50 p.m. A quorum was present.

Public Hearing Neighborhood Assistance Act Credit Program

Mr. Kydes called the public hearing to order at 6:50 p.m.

Mr. Johnson came forward and explained that this was the tenth year that the program has been presented to the Committee. The City acts as a pass through for corporations partnering with various charities. The corporations receive tax credits in return.

Mr. Kydes requested an overview of the verification process for the various organizations. Mr. Johnson said that the organizations were required to file a 990 form with the Agency and many of them were also recipients of CDBG funding. Discussion followed.

Mr. Kydes asked if there was anyone from the public who wished to address the Committee on this issue. No one present from the public wished to address the Committee at this time. Mr. Kydes closed the public hearing at 6:57 p.m.

Mr. Kydes then called the regular meeting of the Planning Committee to order at 6:58 p.m.

ROLL CALL

Mr. Kydes called the roll. A quorum was present.

APPROVAL OF MINUTES - MAY 3, 2012

**** MR. MCCARTHY MOVED THE MAY 3, 2012 MINUTES**

The following corrections were noted: .

Page 1, under **ATTENDANCE**: Please remove Mr. Kimmel's name.

Page 1, following **STAFF**: please add the following category: "**OTHERS**: Bruce Kimmel".

Page 2, under Update on the Norwalk Company Project, paragraph 4, line 2: please change the following from: "have had input with the demolition." To " have had input or if there would be any impact on the demolition or the status of the building."

Page 6, paragraph 6, line 3: please change the following from: "the City's credit for such" to "the City's underwriting for such"

Page 7, paragraph 1, line 3: please change the following from: "with a deeper dive and" to "with further review and"

Page 7, under **OLD BUSINESS**, line 3, please change the following from: " that Mr. Keyes recuse himself from any further discussions regarding the POKO project; due to a personal conflict."
To: " that Mr. Kydes recuse himself from any further discussions regarding the POKO project; due to an abundance of caution to avoid any appearance of conflict. Mr. Kydes has stated that there is no personal conflict with POKO."

**** THE MOTION TO APPROVE THE MINUTES OF MAY 3, 2012 AS CORRECTED PASSED WITH FOUR IN FAVOR (KYDES, HILLIARD, HEMPSTEAD AND GEAKE) AND TWO ABSTENTIONS (MCCARTHY, PEÑA)**

BUSINESS

A. Neighborhood Assistance Act Tax Credit Program

Act on advancement to the Common Council the attached list of programs for inclusion in the Neighborhood Assistance Act Tax Credit Program.

**** MR. HEMPSTEAD MOVED TO APPROVE THE LIST OF PROGRAMS FOR INCLUSION IN THE NEIGHBORHOOD ASSISTANCE ACT TAX CREDIT PROGRAM.**
**** THE MOTION PASSED UNANIMOUSLY.**

Mr. Kydes then recused himself due to an over abundance of caution so that there would be no appearance of impropriety. He stated that he has no conflict with the Globe Theater. Mr. Hempstead then took over as Chair.

B. CDBG

Act on advancement to the Common Council the Globe Theater, Inc. $2,000,000 Section 108 Loan request for the purpose of acquisition and redevelopment of the Globe Theater.

Mr. Sheehan then directed the Committee members' attention to two memos from him to the Committee members, one dated April 3, 2012 and the second dated May 30, 2012 in the back up material regarding the Section 108 Request.

Mr. Hempstead said that he had some concerns about the $2,000,000 dollars up front. Mr. McCarthy agreed and said that he could not support this because he was unfamiliar with this market. He added that he would not want to risk the CDBG funding. Mr. Hilliard said that while he would like to see this done, right now it appears to be too much of a risk. He said that he would like some additional information that would indicate the risk was minimized. Then he would reconsider. Mr. Peña said that he agreed that this $2,000,000 would put a great deal of risk on the City. Mr. Sheehan then reviewed the details around the loan application, which would go to HUD. The Redevelopment Agency would prepare the application at the direction of the Council and HUD would have the final decision as to whether to grant the loan. Mr. Peña asked what would happen if something catastrophic happened to the developer. Mr. Sheehan gave an overview about this. He said that Mr. Farricker had previously indicated that the City would be served by the improvements to the theater and that there had been Committee discussion regarding the value of those improvements.

Mr. Sheehan said that the Agency wanted to be exceedingly cautious about the risk associated with this loan. Mr. Peña said that while he loved the plan and the idea, he would like to move on so that the Committee could discuss Plan B. Mr. Sheehan said that Mr. Farricker had heard the Committee's concern regarding risk and responded in the memo dated May 31st.

Mr. Miklave joined the meeting at 7:23 p.m.

Mr. Sheehan said that Mr. Farricker was making a counter proposal that would mitigate some of the risk and that the Committee would be able to discuss the details with Mr. Farricker who was present.

Mr. Geake said that while he also loved the idea, he would prefer to see someone else assume the risk because if things went south, the City would end up with another failed business.

Mr. Miklave then thanked the Redevelopment Agency for their hard work. He said that while everyone wanted to see the Globe renovated, he could not understand how the deal would work.

It would need to be an economically reasonable plan. He pointed out that the Planning Committee had seen many, many plans and some of them failed because there were some totally unexpected events. Mr. Miklave then used 50 Washington Street as an example. Mr. Hempstead spoke about a facade program that the City had many years ago.

Mr. Kimmel joined the meeting at 7:30 p.m.

Mr. Sheehan then directed everyone's attention to page 2 of the memo dated May 31st and said that there was no evidence that Mr. Farricker or the newly formed Globe Theater, Inc. had ever redeveloped a theater of this size. He went on to list of some information requests. At the end of the day, the CDBG funding is what the City uses for the various other groups.

Mr. Miklave said that the Committee was being asked to advance a $2,000,000 dollar loan that would place the CDBG funding at risk. The consequences of a failure would have a dramatic impact on the other organizations. He said that he would not be comfortable doing this. Mr. McCarthy agreed.

Mr. Kimmel asked how many years the Council had been working on this building. Mr. Hempstead said that this was about the fourth year and the third proposal he had seen.

Mr. Johnson said that there was another technical issue with the108 that would most likely be addressed by HUD. HUD asks for two sources of collateral before the CDBG funding is used. He pointed out that currently there was only one.

Mr. Farricker joined the Committee to address the various questions and issues presented. He asked if he could review the pending contract with the Committee in executive session. Atty. Maslan quickly reviewed the contract. Discussion followed about what details could be discussed in public session. It was determined by the Committee not to go into Executive Session.

Mr. Farricker continued, saying that when he had spoken to the Committee the last time, he felt positive about the fact that his proposal was the best. However, it is clear that the potential risk of the CDBG funds was too great for the City to consider. He said that he has attempted to restructure the business deal so that Norwalk would not bear any of the risk. The front loading of funding involved the direct acquisition of the property and the remediation of the building, along with the architecture and engineering work in order to file for tax credit application. He said that it was clear that the previous proposal was a non-starter. Because of this, he then reviewed the situation and back loaded the request.

Atty. Maslan then spoke briefly about the FOI requirements and said that this was confidential and private material between other parties.

Mr. Farricker addressed the risk of having the City using Block Grant funding, the Globe would take possession of the property and the seller would take a note for the balance of the funds up to 1 million dollars. This leaves the final million dollars. Initially, the only funding that would be needed from CDBG would be $275,000. This amount will be drawn down and will be privately secured to ensure the repayment of the $275,000. He said that a letter of credit would be given to the City before the funds are issued.

Mr. Farricker indicated that without the City's support, the project will not be able to leverage the tax credits. If the project fails, the guarantor will repay the $275,000 immediately. The funds used will be for the theater as it is right now. General remediation will be executed before the tax credits are released. Mr. Farricker said that the City will not be in the theater business and stated he had done project renovations before. He then reviewed the basic structure with the Committee. As far as the specific compliance in regards to blight, Mr. Farricker said that he had spoken to HUD representatives in Hartford and other locations about this.

Mr. Farricker said that he was taking on significant risk and was eager to do this. He said that he fully understood that the City of Norwalk could not place the CDBG funds at risk. If the Committee could move the project forward, then the pieces can start to fall into place.

Mr. McCarthy then reiterated the overall steps of the plan and said that this plan would mitigate the risk for him. Mr. Sheehan said that his department's review of this was very quick because it was submitted so late. He reiterated the small amount of predevelopment that is needed could be done through a small predevelopment loan as long as it is guaranteed. He then asked why the 108 had to be employed. He also asked about some of the details in the May 31st memo.

Mr. Hilliard said that Mr. Farricker's response addressed his concerns. He then asked about the disbursement of the funding. Mr. Farricker said that any time he needed money, he would work closely with the City to make sure the funds were disbursed in the proper way.

Mr. Peña said that he appreciated Mr. Farricker's willingness to rearrange the funding.

Mr. Miklave asked what was the tax status of the theater. Mr. Farricker said that there had been a discussion early on with the Committee about reasonable PILOT tax payments.

Mr. Miklave asked what would happen once the theater was up and operating. Mr. Farricker said that in order to draw down the 1.75 million, a secured credit facility would back that draw if there is a default, the full 108 would become due. In response the City would call the guarantees provided. He added that it was much easier to get someone's guarantee rather than someone's check. Mr. Miklave agreed.

Mr. Miklave asked about the need for the 108 loan. Mr. Farricker said that the 108 would enable the project to get the tax credits advanced as part of a committed "capital stock". The credit facility will not be available until the project is completed.

Mr. Kimmel asked about the market study that was mentioned in one of the memos. Mr. Farricker said that at the last meeting, there was a request for a market study so that the Committee could decide whether they wanted to move forward with the project. He explained that because he was addressing the risk. A significant amount of market work has been already done. A smaller market study was completed and currently there is a bid out for a larger study. It is hoped that this larger study will be completed by September and will focus on the day to day operations of the theater and how it will be managed.

Mr. Geake then asked what the next steps would be. Mr. Hempstead said that he believed that the Committee would be directing the Agency to review the document. He said that he would like to have the information packet at least a week before the meeting and reminded everyone that July 4th would be mid-week.

Mr. Farricker then outlined the process that would be necessary. Mr. Sheehan said that the Agency's issue was an indication of support from the Council. He reminded everyone that the application would be coming back before the Committee at a later date. The current action would be for the Redevelopment Agency to prepare an application for the Committee's approval.

Mr. Miklave said that this proposal made more sense but he would want a document or resolution before voting on it. This resolution would not be binding to the City. Mr. Farricker said that he would appreciate moving this project forward in this manner.

The discussion then moved to when the July meeting would be. Mr. Hempstead suggested July 2nd at 7:30 p.m. This was agreeable to all.

**** MR. MCCARTHY MOVED TO REQUEST THE REDEVELOPMENT STAFF TO DRAFT A RESOLUTION REGARDING THE GLOBE THEATER.**
**** THE MOTION PASSED WITH FOUR IN FAVOR (MCCARTHY, HILLIARD, PEÑA AND GEAKE) AND ONE AGAINST (MIKLAVE).**

Mr. Hempstead then requested that all the Committee members submit any caveats or concerns about the resolution to Mr. Sheehan during the coming week.

WALL STREET REDEVELOPMENT PLAN AREA

Review the POKO 2007 LDA related timelines base on the developer's confirmed September 1, 2011 commencement of construction.

Mr. Olson came forward to address the Committee. He said that there was a new commitment sheet from Citibank, which is on file with the Redevelopment Agency. An application for the Urban Act Grant was submitted and there was a meeting with the granting agency last Thursday. From there the application should be moved to OPM and once approved, the building will be demolished. There have been numerous applications for affordable housing. However, this application is for the market rate units and the commercial component.

Mr. McCarthy asked about the steps of the process. Mr. Olson said that originally the construction commitment from Citibank was for 16 million, but now it is higher. There is now debt along with tax credits. Mr. Sheehan confirmed that the letter from Citibank had arrived a few weeks ago. All the funding must be in place before the demolition and construction can begin. Discussion followed.

Mr. Sheehan then gave and overview of Norwalk's history with Urban Act funding, including 95/7 and other projects. The request has been in DECD and then it will go to OPM to submit it to the bond commission for inclusion on their agenda. If the application is approved by the Bond Commission, Mr. Sheehan indicated this would significantly move the project forward. Mr. Olson is working with private lobbying parties to advance this objective also.

Mr. Kimmel asked about a September deadline that had not been met and the 36 month extension had been brought up. Mr. Hempstead said that this involved the Intent for Demolition. He reviewed the process and referred everyone to Atty. Maslan for clarification. Mr. Hempstead then read a section of the agreement where it states "construction shall commence". Atty. Maslan said that when the 90 days, that started a time period of construction. He said that there was no timetable for construction within the 36 month period. He said that there would have to be some analysis about whether or not there had been compliance or if the redeveloper has defaulted.

Mr. Miklave said that he appreciated the sense of frustration regarding the time period that it takes to get the project done. He pointed out that POKO was moving the fastest of the three developments underway in Norwalk. He said that this development team has been on the spot, on the mark on every level and in harmony with the community. The affordable housing was included before it was mandated by anyone. However, in the middle of the project, the greatest economic downturn since 1929 happened. Mr. Miklave said that he understood that people were frustrated. He said that from his standpoint, the Committee should recommend a resolution from the Council to the DCED stating the City's support for this project.

Mr. Hilliard said that out of all the developers POKO has been the most straightforward and done what they said they would do. He applauded them and said that the Committee should support them because he has been reasonable and responsible. Mr. Hempstead said that there was a contract that can be modified by asking. He said that he thought it was disingenuous to file for demolition in order to consider it construction.

Mr. Olson said that things have moved dramatically and that the timing does not require him to have the affordable housing piece in place at this time. He said that he needs to have all the financing in place and pointed out that without demolition, the construction cannot be started.

Mr. Hempstead said that there was a contract and asked if there needed to be a modification to the contract at this time. He added that he just wanted to see something move forward in a manner similar to what was agreed to.

Mr. Miklave said that 95/7 had taken 12 years and that there had been numerous times when the committee bent over backwards to help. But this was not being done for POKO. He then wondered whether this was political payback. Mr. Hempstead pointed out that the LDA had been signed under the current administration. Mr. Miklave said that the developer had been chosen by the previous administration.

Mr. Geake left the meeting at 8:58 p.m.

Mr. Sheehan said that the developer had noticed the City as per the LDA that construction had started, but there was no response by the City questioning demolition as meeting that standard. He said to raise that question now, nine months later, is difficult.

Mr. Hempstead asked Mr. Olson about what would happen next with the grant application. Mr. Olson said that DECD would be the next step and they had to send it to OPM. He then pointed out that the Council had not supported him when he applied for the TIGER grant and several others. The lack of support didn't help. He said that he was going to go forward with the project, but unfortunately, he had not received the support from the City.

Mr. Olson said that he would like to have the City to write a letter to the OPM in support of this. Mr. Olson said that it was the market rate piece was the part that driving the project and he can't get that until he gets into the ground.

Mr. Peña said that he understood the passion and that it was time for the relationship to change and be done differently. These large projects need to be supported. The City is losing over 300 jobs for local business since Northrup Grumman is leaving town. What happened in the past, happened. But now is the time to look for solutions. It's time to take action. The attorneys are here to deal with the nuances.

Mr. Miklave said that he agreed with Mr. Peña. For some reason, Norwalk simply has a way of development that takes forever. It isn't streamlined, it doesn't help the developers. Time is money for a developer. It is important to use this Committee to find a way to identify the impediments to developments and insure that the stakeholders have the right for input. It is important to help the developers move forward. He said that he would support a resolution for the development. He added that taking on a project to identify the impediments for development would be incredibly important.

Mr. Sheehan said that there were some public policy issues that put Norwalk at a disadvantage in terms of development. He then gave an example of the WPCA dealing with the water and sewer service. He said that he would provide specifics and said that this type of situation was inhibiting development.

Mr. Peña said that it was time to change the antiquarian ways of doing business in Norwalk. The City should not be fighting and stalling projects. In the last seven or eight months on the Council, it seems that this is a problem for all the developers.

A member of the public then pointed out that the conversations that have been occurring would get community support. There is a frustration level in the community groups about this.

Mr. Hilliard said that there was an impediment to small business in terms of parking. One potential business owner found out that it would cost over $100,000 for two parking spaces alone. This is excessive. Mr. Sheehan said that the Zoning Commission had done a modification on this. He went on to give the details for the fee in lieu modifications made in South Norwalk.

It was pointed out that Stamford's sewer fees are lower than Norwalk's and that it was easier to develop projects in other towns. Mr. Hempstead commented that Danbury was worse than Norwalk in terms of development requirements. He added that Stamford might have an overlay district, which could be one way they reduce costs of water and sewers.

ADJOURNMENT

**** MR. HEMPSTEAD MOVED TO ADJOURN.**
**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 9:25 p.m.

Respectfully submitted,

Sharon L. Soltes
Telesco Secretarial Services